



South Dakota One Call Notification Board

Larry Englerth
Executive Director

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April 14, 2004

Barry Olander, President
Olander Contracting Company
3155 44th Ave. NW,
Fargo, ND 58107

Dear Mr. Olander,

The purpose of this non-compliance letter is to insure that Olander Contracting Company clearly understands the responsibility of an excavator to provide complete and accurate information to the South Dakota One Call System when initiating a routine locate request. While closing Complaint OC04-001(B), this correspondence will provide notice that any future violations during the next twelve months would be subject to penalties under SDCL 49-7A-19 Penalties for Intentional Violation.

In establishing the Administrative Rules that govern the operation of the South Dakota One Call System, the Board of Directors has attempted to clearly define the responsibility and requirements for each party involved in the process. This should allow for an excavation notification process that meets the needs of both the excavator and the facility operator while providing a safe work environment for excavation employees and establishing concise responsibilities for liability issues should damage to an underground facility occur.

The Enforcement Committee established the following findings when locate request 040190075 was reviewed in the complaint.

1. The excavator clearly has a responsibility to provide an accurate legal description of the general address site of the excavation which was not done on this locate request.
2. The comment provided by Olander Contracting that "it is not unusual for contractor's to make call ins without having access to section and township information as it sometimes isn't readily available" does not indicate the Olander Contracting understands their responsibility when initiating a routine locate request. ARSD 20:25:03:04, Information required when initiating a routine locate request provides alternative methods for the excavator to inform the facility operator of the general location of the excavation site. On this request, no alternative information was provided.
3. The information provided as the "description of the specific excavation site" is clearly inadequate and does not meet the legal requirements of the law. ARSD 20:25:03:04, Information required when initiating a routine locate request provides the guidelines for the excavator to use when identifying the specific excavation site (Note: "excavation site" is defined in ARSD 20:25:01:01).
4. The comment provided by Olander Contracting that the locate request was adequate for the facility operator to respond indicates a lack of understanding regarding the requirements of an excavator when initiating a routine locate request. It is the expectation of the South Dakota One Call System that a notice of excavation will provide the facility operator with sufficient information that they may complete the accurate marking of facilities in an efficient manner without further contact with the excavator.
5. Ticket notification 040190075 sent to facility operators did not meet the legal requirements of a locate request and should have been rejected by the South Dakota One Call Center.

The Enforcement Committee would recommend that Olander Contracting Company review and insure that all employees initiating locate requests for excavation in South Dakota be knowledgeable of the following statutes and administrative rules:

§ 49-7A-5. Notification of proposed excavation.

No excavator may begin any excavation without first notifying the one-call notification center of the proposed excavation. The excavator shall give notice by telephone, facsimile, in person, or by other methods approved by the board pursuant to rules promulgated pursuant to chapter 1-26 to the one-call notification center at least forty-eight hours prior to the commencement of the excavation, excluding Saturdays, Sundays, and legal holidays of the state, but not more than ten business days prior to any excavation. The board may promulgate rules to reduce the forty-eight-hour interval for emergency or subsequent inquiries to the original locate request and may lengthen the forty-eight-hour interval for non-excavation requests.

Section 20:25:01:01 Definitions. Terms defined in SDCL 49-7A-1 have the same meaning when used in this article. Terms used in this article mean: (Non-applicable definitions not included)

- "Excavation site," the specific location where an excavation will occur;
- "Notification Time," the time at the end of the locate request when the answering attendant provides the excavator with a confirmation number or the time the computer software, facsimile and email locate request is received by the one call center.
- "Routine locate request," a communication between an excavator and the one call center in which a request for locating underground facilities for excavation activity that will commence within the next ten business days;
- "Ticket," a document issued by the one-call notification center to operators and excavators for the purpose of locating an underground facility.

Section 20:25:03:04. Information required when initiating a routine locate request.

The following information is required to be provided by the excavator when a routine locate request is submitted:

- (1) The name, address, and telephone number of the person making the routine locate request;
- (2) The name, address, and telephone number of the excavator doing the work;
- (3) The date and time when excavation is scheduled to begin;
- (4) The depth of planned excavation within 18 inches vertical;
- (5) The type and extent of excavation being planned including:
 - (a) Whether the excavation involves tunneling or horizontal boring; and
 - (b) If applicable, whether the use of explosives is anticipated;
- (6) A phone number that provides access to the excavator during normal business hours;
- (7) The location of the excavation by any one or more of the following means:
 - (a) Latitude/longitude coordinates;
 - (b) A specific street or rural address, which has a numbered address on a marked street or avenue that is publicly recorded; or
 - (c) The distance and direction from the nearest intersecting street; or
 - (d) A specific quarter section by section, range, township, and county; and
- (8) A description of the specific excavation area within each location:
 - (a) In relationship to structures or roads or other known points of reference on or near the property;
 - (b) In the event the excavation area cannot be clearly identified on the routine locate request, the excavator shall mark the route or boundaries of the excavation site of the proposed excavation by means of white paint or flags; or
 - (c) If it is impractical to flag, mark, or describe the excavation area, the excavator may schedule a meeting with the operators to inform them of the extent of the excavation on the site.

Section 20:25:03:05.01 Valid period for underground facility markings.

Markings of underground facilities shall be considered valid so long as the markings are clearly visible but not for more than twenty-one calendar days from the start date on the ticket. On extensive and continuous excavation activity, written working agreements between the operator and the excavator may be established to extend the valid period of the original ticket.

Section 20:25:03:05.02. Excavator responsibilities for the preservation of markings.

After the underground facility operator has marked the location of that operator's underground facilities in the proposed excavation area, the excavator shall plan the excavation to avoid damage to, and minimize interference with, the marks. The excavator is responsible for protecting and preserving the staking, marking, or other designation until the marks are no longer required for proper and safe excavation work at or near the underground facilities.

Section 20:25:03:05.03. Excavator responsibilities when excavating near markings.

If excavation is required within eighteen inches, horizontally, of the marked facility, the excavator shall expose the facility only by use of hand excavation, air cutting, water cutting, or vacuum excavation in a manner that does not damage the underground facilities.

Section 20:25:03:08. Ticket standards. (Non-applicable sections not included)

Tickets shall be prepared by the one-call notification center in the following manner:

- A separate ticket shall be issued for each excavation site;
- On a continuous job site, a ticket shall be issued for the right-of-way of each separate road, street, avenue, or identified continuous easement;
- A modified ticket may be issued if the excavator determines that the excavator provided inaccurate information on the original request. Upon its issuance, the modified ticket supersedes the original ticket. Revised information may only be accepted from the excavator identified on an original ticket. The start time on the modified ticket is two working days from the issuance of the modified ticket; and
- A modified ticket may be issued if the excavator, one call notification center, or the operator determine that the one call notification center entered inaccurate information on the original request or the operator provided inaccurate marking at the original excavation site

This listing is not intended to be all inclusive but does provide a summary of excavator responsibilities when using the South Dakota One Call System. I have enclosed several copies of the Operations Manual for Facility Operators and Excavators for your use in the training of your employees. Additional copies are available by contacting me at exedin@sdonecall.com or at 605-339-0529. The South Dakota Statute and Administrative Rules are noted starting on page 25. If during the review process, you have any questions or comments relative to the operational processes of the South Dakota One Call System, feel free contact me for clarification.

Sincerely,

Larry L. Englerth
Executive Director

Cc: Enforcement Committee

OLANDER CONTRACTING CO.
GENERAL ACCOUNT
P.O. BOX 1026
FARGO, NORTH DAKOTA 58107

UNION STATE BANK OF FARGO
FARGO, NORTH DAKOTA

032627

77-1057/913

*TWO HUNDRED AND 00/100 DOLLARS*****

SOUTH DAKOTA ONE CALL NOTIFICATION BOARD
1012 NORTH SYCAMORE AVENUE
SIOUX FALLS SD 57110-5747

04/29/04	32627	*****200.00
DATE	CHECK NO.	AMOUNT

OLANDER CONTRACTING CO.

Carolyn D. Olander
AUTHORIZED SIGNATURE

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